THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.4140 OF 2003

Date: 18th November 2006

Between:
Smt. Jujjuru Lakshmi,
W/o J.Suryanarayana Raju (late),
Hindu, a/a 56 years, A.P.H.B., MIG-134,
Near Vizzi Stadium, Babametta,
Vizianagaram –535 002.

…. Petitioner.

And

1. Dist. Co-operative Central Bank Limited,
   Vizianagaram, rep. by its General Manager
   and another.

…. Respondents.

* * *

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring action of the respondents in not paying gratuity and leave encashment amounts of the petitioner's husband to the petitioner, as arbitrary and illegal.

2. It appears that the husband of the petitioner J.Suryanarayana Raju was an employee of the District Cooperative Central Bank, Vizianagaram. He worked as Assistant Manager at V.T.Agraharam Branch. While so, he died due to ill health on 05.4.1999. Consequent upon the demise of husband of the petitioner, the respondents are liable to pay all his terminal benefits, such as pension, provident fund, gratuity amount and leave encashment amount etc.,

3. According to the petitioner, she is legal heir and competent to receive gratuity and leave encashment amount and she was nominated by her husband to receive all terminal benefits and gratuity. Her children also expressed their no objection for payment of the same to her. While so, the respondents have not paid gratuity and amount payable towards leave encashment till date. Therefore, the writ petition.

4. An interim order was made by this Court on 30.4.2003 directing the respondents to pay undisputed amount of gratuity within a period of four weeks from 30.4.2003 by giving a detailed communication to the petitioner. Now, the learned counsel for the petitioner, however, states that the petitioner received a communication from the District Cooperative Central Bank Limited, Vizianagaram, dated 04.6.2003, wherein it is stated that in a suit filed before the learned Senior Civil Judge, Vizianagaram in O.S.No.38 of 2001 in I.A.No.461 of 2001 dated 27.7.2001 a conditional attachment of gratuity amount of Rs.2,16,400/- payable to the respondents 1 to 5 therein including the petitioner was made through garnishee order and the same is in force. Therefore, the gratuity amount including leave encashment amount was not released. This shows there was no *mala fide* intention on the part of the respondents to deny the gratuity amount and other retiral benefits. In view of the pendency of the suit O.S.No.38 of 2001 before the learned Senior Civil Judge, Vizianagaram, the amounts were not paid.

5. In view of the above, the writ petition is disposed of directing the respondents to pay the amounts as claimed by the petitioner, if she is otherwise eligible as soon as suit is disposed of or in pursuance of the

interim order passed in the pending suit. The petitioner is at liberty to approach the civil court and work out her remedies. No costs.

C.V.RAMULU, J.

Date: 18th November 2006.
BSB